

REMARKS

In accordance with the foregoing, claims 1, 15, and 29 have been amended. Claims 1-7, 9-21, 23-35, and 37-42 are pending and under consideration.

In the Office Action mailed December 7, 2010, claims 1-5, 7, 9-19, 21, 23-33, 35, and 37-42 were rejected under 35 U.S.C. 103 as being unpatentable over Johnson (U.S. Patent No. 5,664,109) in view of the Applicant Admitted Prior Art (AAPA); and claims 6, 20, and 34 were rejected under 35 U.S.C. 103 as being unpatentable over Johnson and AAPA and further in view of Amit (Federated Database Systems for Managing Distributed, Heterogeneous, and Autonomous Databases).

The foregoing rejections are respectfully traversed.

Moreover, on pages 9 – 28 of the Office Action, the Examiner asserts a Response to Arguments presented in the Amendment filed October 29, 2010. The Examiner's comments in the Response are addressed herein below.

Amendments to Claims 1, 15, and 29 of the Present Application

Independent claims 1, 15, and 29 of the present application are amended to recite further patentably distinguishing features of the present invention over the references relied upon.

More specifically, each of independent claims 1, 15, and 29 is amended to recite (using the recitation of claim 1 as an example):

computer platforms operating on "disparate operating systems" including "a server and client computers comprising a personal computer and a hand-held device"

"the master control file" interfacing between the medical records system and each of the disparate operating systems and "isolating the medical records system from the disparate operating systems", "the master control file interfacing with the disparate operating systems through respective application program interfaces of the disparate operating systems".

Moreover, independent claims 1, 15, and 29 were previously amended to recite "a part of the master control file being stored on the server and another part of the master control file being stored on the client computers, the parts of the master control file interfacing with each other",

Support for the foregoing features of the present invention is found at least in the specification, pages 11, 12, and 38 and Figs. 4, 5, 6, 7, 11A, and 11B.

None of the foregoing references relied upon, either alone or in combination, discusses or suggests the foregoing features of the present invention.

Rejections of Claims

I. Rejections of claims 1-5, 7, 9-19, 21, 23-33, 35, and 37-42 under 35 U.S.C 103

Johnson discusses a method for extracting pre-defined data items from medical service records generated by health care providers.

Johnson identifies the problem of "centralizing and sharing medical records" (col. 1, lines 51 and 52) and discusses that a "centralized record keeping system receives record documents from one of a plurality of independent service providers" as Johnson's invention (col. 2, at lines 13-15). Johnson, Fig. 1, illustrates "a centralized, computer-based system 110 for receiving, storing and processing records" which includes "at least one network of server computer 112 organized as a local area network for serving a plurality of subscriber client systems 114" (col. 4, at lines 41-49), and Johnson, col. 4, at lines 50 and 51, discusses that "Client systems 114 can be standalone computers or networks of computers".

Johnson does not discuss or suggest "the master control file" interfacing between the medical records system and each of the disparate operating systems and "isolating the medical records system from the disparate operating systems", "the master control file interfacing with the disparate operating systems through respective application program interfaces of the disparate operating systems" as recited in claim 1 (with similar recitations in claims 15 and 29) of the present application.

However, neither Johnson nor the AAPA, either alone or in combination, discusses or suggests the features of the present invention as recited in claims 1-5, 7, 9-19, 21, 23-33, 35, and 37-42 of the present application.

More specifically, neither Johnson nor the AAPA, either alone or in combination, discusses or suggests the features of amended claims 1, 15, and 29 of the present application (using the recitation of claim 1 as an example):

"computer platforms operating on disparate operating systems including a server and client computers comprising a personal computer and a hand-held device"

"the master control file" interfacing between the medical records system and each of the disparate operating systems and "isolating the medical records system from the disparate

operating systems", "the master control file interfacing with the disparate operating systems through respective application program interfaces of the disparate operating systems".

Moreover, independent claims 1, 15, and 29 were previously amended to recite "a part of the master control file being stored on the server and another part of the master control file being stored on the client computers, the parts of the master control file interfacing with each other",

(a), (b) on page 3 of the Office Action

The Examiner relies upon Johnson (Figure 1) as discussing a computer system, a network, a server computer, and a subscriber client.

Neither Johnson nor the AAPA discusses a "hand-held device" or the motivation of providing physicians with wireless computing platforms for convenience.

Moreover, the AAPA does not discuss or suggest a computer platform including a "hand-held device as recited in claims 1, 15, and 29 of the present application.

(c) on page 3 of the Office Action

The Examiner relies upon Johnson, col. 2, at lines 13 - 26, as discussing "portability enabling software". However, Johnson, col. 2, at lines 13 - 26, discusses a "centralized record keeping system", rather than "portability enabling software" as in the present invention.

(b) on page 4 of the Office Action

The Examiner relies upon Johnson, Fig. 7, MASTER PATIENT RECORDS 702, as discussing the "master control file" of the present invention. However, the MASTER PATIENT RECORDS 702 does not isolate the medical records system from the disparate operating systems as in the present invention or interface with the disparate operating systems through respective application program interfaces as in the present invention.

That is, master patient records of Johnson do not correspond to the "master control file" of the present invention. Johnson, col. 13, lines 13 - 15 discusses "Records in tables 702 and 704...comprise "the MPI database, as indicated by dashed line 703". That is, tables 702 and 704 of Johnson correspond to a database rather than to the "master control file" of the present invention.

Moreover, Johnson does not discuss or suggest "a part of the master control file being stored on the server and another part of the master control file being stored on the client

computers, the parts of the master control file interfacing with each other" also as recited in the foregoing claims of the present application.

(c) on page 4 of the Office Action

The Examiner relies upon Johnson, col. 2, at lines 27 - 37, as discussing "controlling and providing interoperability" and "computer platforms operating on disparate operating systems". However, Johnson, col. 2, at lines 27-37 discusses that providers are able to continue to use their preexisting information systems, including medical record numbers or patient identifiers", rather than "controlling and providing interoperability of a medical records system between computer platforms operating on the disparate operating systems" as in the present invention. Moreover, claims 1, 15, and 29 of the present application are amended to recite (using the recitation of claim 1 as an example):

"the master control file interfacing between a database of text and medical image data and medical records and each of the disparate operating systems".

(d) The Examiner asserts that Johnson teaches using software to interface with a database containing therein text data, image data, patient records (Figure 7), and the plurality of providers (Figure 2). However, col. 12, at lines 62-65 of Johnson refer to "tables of data stored by the server network 112 (FIG. 1) in the database 216 (FIG. 2)" rather than the "master control file" of the present invention as recited in claims 1, 15, and 29.

(e) Further, the Examiner's assertions in the Office Action that Johnson teaches "interfaces with the disparate operating systems" are respectfully traversed. The Examiner relies upon Figure 8, label 804 - 805 of Johnson. However, Figure 8, label 804-805 of Johnson discusses "transmit query to server" (804) and "match query to patient" (805) without discussing "interfaces between a database of text and medical image data and medical records and the disparate operating systems" as recited in the claims of the present application.

(f) The Examiner relies upon Figure 1 of Johnson as discussing software capable of allowing subscriber computer to view data stored on the server computer. However, Johnson does not appear to discuss or suggest "medical image" formats, nor does Johnson mention "medical image".

(g) The Examiner further relies upon Figure 1 of Johnson to assert that Johnson discusses software stored on the server computer and software stored on the subscriber

computer to control operation and interaction of both, wherein both software systems interact with each other over the network.

However, Johnson does not discuss or suggest "a part of the master control file being stored on the server and another part of the master control file being stored on the client computers, the parts of the master control file interfacing with each other" as recited in claim 1 (and claims 15 and 29) of the present application.

(h) Further, the Examiner relies on Johnson, Figure 7, to assert that the master patient record is capable of mapping documents containing therein text and image data stored in a database to patient records. Johnson does not discuss or suggest "medical image data", and, moreover, the master patient record of Johnson does not correspond to the "master control file" of the present invention.

(i) The Examiner further relies on Johnson, Figure 7, as discussing that the system is capable of maintaining the database. Claims 1, 15, and 29 recite "a database of text and medical image data and medical records", whereas Johnson does not discuss or suggest a database which includes "medical image data" as in the present invention.

(j) The Examiner relies upon Johnson, Figure 4-6, as discussing receiving and storing the documents, but Johnson does not discuss "retrieving the patient episode data from the secure file and storing the patient episode data in the database" as recited in claims 1, 15, and 29 of the present application.

(k) The Examiner relies upon Johnson, Abstract and throughout, as discussing retrieving the stored documents, wherein the documents are stored in the native formats. However, Johnson does not discuss or suggest "a plurality of medical image and text formats" as recited in claims 1, 15, and 29 of the present application.

(l) The Examiner relies upon Johnson, Figure 7, Abstract as discussing the master patient record is capable of linking with a plurality of documents in any format, and upon Johnson, Figure 1, as discussing plurality of subscribers. Johnson does not discuss or suggest "a plurality of image and text formats" as recited in claims 1, 15, and 29 of the present application.

(m) The Examiner further asserts that Johnson, Figure 2, providing patient data electronically over a network reads on "patient episode data". However, Johnson, col. 6, at line 24, in reference to Figure 2, discusses "patient demographic information" rather than "patient episode data" as recited in claims 1, 15, and 29 of the present application.

Further, the Examiner asserts that Johnson teaches that computer security is well known and should be applied to medical information (col. 14, at lines 4-25). Johnson discusses a "privileges mask" but not "capturing patient episode data into a secure file" as recited in claims 1, 15, and 29 of the present application.

The Examiner asserts that Johnson col. 5, lines 23-25, discusses that e-mail is also known in the art and may be used to communicate medical data, however, Johnson, col. 5, at lines 23-25 discusses "E-Mail services for delivering messages between providers". Johnson does not discuss "capturing patient episode data into a secure file" and "transmitting the secure file as an e-mail attachment" as recited in claims 1, 15, and 29 of the present application.

The Examiner asserts that Johnson, Figure 2, label 208, teaches receiving the transmitted patient data for storage. However, Johnson, Figure 2, label 208 is a "Report Handler" and does not discuss further features.

In addition, the Examiner admits that Johnson does not discuss "a secure file, transmitting the secure file as an e-mail attachment, retrieving the patient episode data from the secure file".

More specifically, the Johnson apparatus would not include "transmitting a secure file as an e-mail attachment" in that Johnson, col. 14, lines 4-25, discusses "each record contains a field for an E-mail address" and the use of "a privileges mask". That is, Johnson discusses including the e-mail address into the record rather than attaching the record to an e-mail. Johnson discusses the use of "privilege level" rather than "transmitting a secure file as an e-mail attachment" as recited in the claims of the present application.

Further, the Examiner's assertions that the "skilled artisan would have recognized the benefit that since physicians are already familiar with emailing, it would be easier to use email to submit patient data than to train physicians to use a different interface" are respectfully traversed. Johnson, col. 14, lines 4-25, teaches away for the reasons set forth above.

Regarding claim 2, the Examiner's assertions that any hand-held device within the scope of claim 1 and capable of communicating with the apparatus "inherently" executes "medical software" to communicate with the claimed apparatus are respectfully traversed. The recitation of claim 2 was previously amended to recite that "at least a portion of the medical records" is executed by the "hand-held device".

Regarding claim 3, the Examiner asserts that Johnson teaches that the system is capable of accepting documents from a plurality of subscribers (Figure 1) and retrieving information for the plurality of subscribers (Figure 8). However, Johnson does not discuss or suggest "the master control file provides the medical records system with the interoperability to populate, maintain and retrieve information from its database" as recited in claim 3 of the present application.

Regarding claim 4, the Examiner asserts that Johnson teaches (Figures 3 and 7) that the system is capable of maintaining the database. However, Johnson does not discuss or suggest "the master control file controls path and name of folder images, path to and name of the database, database field names, attributes, and locations on the folder image" as recited in claim 4 of the present application.

The Examiner's assertions that Examiner considers a database table containing therein the documents to be a "folder" are respectfully traversed. Johnson does not discuss "folder images" as recited in claim 4 of the present application.

Regarding claim 5, the Examiner's assertions are respectfully traversed. Figure 5 of Johnson represents a document rather than meeting the limitations recited in claim 5 of "each field name is retained and utilized by the medical records system when it populates and retrieves information".

Regarding claim 7, the Examiner asserts that Johnson (Figure 7 label 706) discusses linking the document identifier to the master patient identifier for display. However, Johnson does not discuss or suggest "a pointer to and name of graphic images indicates the images that display when the medical records system is executed" as recited in claim 7 of the present application.

Regarding claim 9, the Examiner asserts that Johnson teaches that the system is capable of storing medical data (Figure 7). Claim 9 is patentable at least for its dependence upon claims 2 and 1 of the present application.

Regarding claim 10, the Examiner asserts that Johnson teaches that the system is capable of allowing remote subscribers to review patient records (Figure 8). Claim 10 is patentable at least for its dependence upon claims 2 and 1 of the present application.

Regarding claim 11, the Examiner asserts that Johnson discusses that the system is capable of allowing remote subscribers to review patient records (Figure 8). However, Johnson does not discuss "wherein the records system storing patient medical records to enable health

care providers to view health indicators remotely" as recited in claim 11 of the present application.

Regarding claim 12, the Examiner asserts that "encryption is a form of 'compresses'". Claim 12 of the present application recites "wherein the apparatus captures, compresses, encrypts, and encapsulates patient episode data into the secure file". That is, claim 12 recites "compresses" and "encrypts".

Johnson does not discuss or suggest the features recited in claim 12 of "wherein the apparatus captures, compresses, encrypts, and encapsulates patient episode data into the secure file".

Regarding claim 13, Johnson does not discuss or suggest "wherein the apparatus transmits the secure file to a repository mail server, which de-encapsulates and uncompresses the secure file and stores the de-encapsulated, uncompressed secure file into a patient medical record" as recited in claim 13 of the present application.

Regarding claim 14, the Examiner asserts that Johnson (Figure 4 label 422) teaches database triggers capable of notifying subscribers that new patient data is available for a specific patient of interest. Claim 14 of the present application recites "a message is transmitted to an assigned physician notifying the assigned physician of the receipt of the patient episode data". Claim 14 is patentable at least for its dependence upon claim 13.

The Examiner asserts that claims 15, 16, 17, 18, 19, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 37, 38, 39, 40, 41, and 42 are rejected for the same rationale applied to the rejections of claims 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 23, 24, 25, 26, 27, and 28. However, the Examiner does not assert a rationale for rejecting claims 15, 16, 17, 18, 19, 21, 23, 24, 25, 26, 27, and 28.

Claims 15 and 29 are patentable for a similar rationale as discussed above with respect to claim 1.

Claims 16 and 30 are patentable for a similar rationale as discussed above with respect to claim 2.

Claims 17 and 31 are patentable for a similar rationale as discussed above with respect to claim 3.

Claims 18 and 32 are patentable for a similar rationale as discussed above with respect to claim 4.

Claims 19 and 33 are patentable for a similar rationale as discussed above with respect to claim 2.

Claims 21 and 35 are patentable for a similar rationale as discussed above with respect to claim 7.

Claims 23 and 37 are patentable for a similar rationale as discussed above with respect to claim 9.

Claims 24 and 38 are patentable for a similar rationale as discussed above with respect to claim 10.

Claims 25 and 39 are patentable for a similar rationale as discussed above with respect to claim 11.

Claims 26 and 40 are patentable for a similar rationale as discussed above with respect to claim 12.

Claims 27 and 41 are patentable for a similar rationale as discussed above with respect to claim 13.

Claims 28 and 42 are patentable for a similar rationale as discussed above with respect to claim 14.

Withdrawal of the rejections of claims 1-5, 7, 9-19, 21, 23-33, 35, and 37-42 under 35 U.S.C 103 is respectfully requested.

IV. Rejections of claims 6, 20, and 34 under 35 U.S.C. 103

The Examiner admits that Johnson and the Examiner's assertions of Official Notice do not teach "the pointer to and the name of the database indicates the database" but relies upon Amit (Federated Database Systems for Managing Distributed, Heterogeneous, and Autonomous Databases) as discussing "the pointer to and the name" between databases (Amit, page 192, Section 1.1).

Moreover, the Examiner asserts that "At the time the invention was made, it would have been obvious to one of ordinary skill in the art to include the teachings of Amit within the embodiment of Johnson and the Official Notice with the motivation of providing increased

availability, increased reliability, and improved access time (Amit; page 185, column 2 Section Distribution)". Amit, page 185, column 2 Section Distribution, discusses distributed databases whereas Johnson identifies the problem of "centralizing and sharing medical records" (col. 1, lines 51 and 52) and discusses that a "centralized record keeping system receives record documents from one of a plurality of independent service providers" as Johnson's invention (col. 2, at lines 13- 15). Thus, combining Amit with Johnson would not achieve the present invention.

Therefore, neither Johnson, the Examiner's assertions of Official Notice, or Amit, either alone or in combination, discusses or suggests "pointer to and the name of the database indicates the database which the medical records system will populate and retrieve information from" of the present invention.

Claims 20 and 34 are patentable for a similar rationale as discussed above with respect to claim 6.

Withdrawal of the rejections of claims 6, 20, and 34 under 35 U.S.C. 103 is respectfully requested.

Response to Arguments

In the Response to Arguments section, on pages 9 – 28 of the Office Action, the Examiner asserts a response to the arguments presented in the Amendment filed October 29, 2010. The Examiner's assertions are respectfully traversed.

More specifically, the Examiner's reliance on the AAPA for the features of a "hand-held device" as in the present invention is respectfully traversed. The AAPA identifies a need for "a master control file and an engine which enable an application program to be ported to a hand-held device or used over the Internet" (specification page 7). The Examiner is respectfully requested to support the Examiner's assertions by affidavit or by citing a reference, or withdraw same.

Regarding the Examiner's assertions that the arguments presented in the October 29 Amendment do not specifically point out how the language of the claims patentably distinguishes them from the references, the Examiner is respectfully requested to review items (a) – (l) on pages 10 – 13 of the October 29 Amendment for a discussion of the specific claim language which patentably distinguishes over the references relied upon.

Regarding the Examiner's assertions that the Applicant does not define "portability enabling software", the Examiner is directed at least to the specification, pages 11-14, and 36, and Figs. 4

and 5 of the present application. It is respectfully submitted that "portability enabling software" is set forth in the present application, including the specification, drawings, and claims.

The Examiner's assertions that any structure for "master control file" is not specifically defined are respectfully traversed. The Examiner is respectfully requested to review at least the specification, pages 8, 37, 38 and, 40, Figs. 6, 7, 9, 10, 11A, 11B, 13, 14, 15, 16, 17, and 18. Moreover, the Examiner is respectfully requested to review the recitations of the claims, at least to the recitations of independent claims 1, 15, and 29 ("the master control file includes access and mapping information...").

Regarding the Examiner's reliance on Figure 7 of Johnson as discussing textual data, image data, and medical records, Figure 7 of Johnson does not appear to show image data. However, independent claims 1, 15, and 29 of the present application are amended to recite "medical image data", which is not discussed by Johnson.

Regarding the Examiner's assertions on pages 14 – 19, Johnson does not discuss or suggest the computer system of the present invention, with a server and client computers interfacing using a "master control file" as in the present invention. The particular arguments and specific claim recitations which patentably distinguish over the references relied upon are discussed herein above.

The Examiner's assertions that there is no definition for "patient episode data" are respectfully traversed. The Examiner is respectfully requested to review the present specification, at least pages 24, 45, 46, and 49.

The Examiner's reliance upon the AAPA as showing a "secure file" is respectfully traversed. The Examiner is respectfully requested to support the Examiner's assertions by affidavit or by citing a reference, or withdraw same.

Regarding the Examiner's assertions that Johnson discusses e-mailing, it is noted that Johnson discusses including an e-mail address into a record rather than attaching the record to an e-mail.

Regarding the recitation of claim 2, the Examiner is again respectfully requested to support the Examiner's assertions that any hand-held device within the scope of claim 1 and capable of communicating with the apparatus "inherently" executes "medical software" by affidavit or withdraw same, in accordance with 37 C.F.R. 1.104. Moreover, it is noted that the recitation of claim 2 was previously amended.

The Examiner asserts that Johnson teaches that the system is capable of storing, maintaining, and retrieving data. However, Johnson does not discuss or suggest "the master control file provides the medical records system with the interoperability to populate, maintain, and retrieve information from its database" as in the present invention.

Regarding the Examiner's assertions that "folder" is not defined, the Examiner is requested to review page 25 of the present application.

The Examiner relies upon Figure 5 of Johnson to teach that the original field names are retained in the original document. Col 9 lines 6-7 of Johnson discusses that Fig. 5 is an example of a medical document, rather than "each field name is retained and utilized by the medical records system when it populates and retrieves information" as recited in claims 5, 19, and 23 of the present application.

Regarding the Examiner's assertions that Figure 7 of Johnson teaches that an arrow is linked from the document identified to the original document as stored in the database and that this is a form of "pointer", Johnson does not discuss or suggest the feature of the present invention a pointer to and "name of graphic images indicate the images that display when the medical records system is executed" as recited in claim 7 of the present application.

Regarding "health indicators", the Examiner is respectfully requested to review page 45 of the present application.

The Examiner is respectfully requested to support the Examiner's assertions that the AAPA teaches encrypting or withdraw same.

Regarding the Examiner's assertions Amit teaches substituting a single database with a plurality of remotely distributed databases, it is noted that Johnson (Abstract, line 1) discusses "a central medical record repository". Thus, Amit teaches away from Johnson and would result in an inoperable combination which would not lead to the present invention.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.


Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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